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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,012	04/05/2001	Richard G. Hartmann	END9 2000 0172 US1	5719

7590 08/06/2004

IBM CORPORATION  
INTELLECTUAL PROPERTY LAW (Dept. 917, Bldg. 006-1)  
3605 HIGHWAY 52 NORTH  
ROCHESTER, MN 55901-7829

EXAMINER

PHAM, THOMAS K

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/827,012

Applicant(s)

HARTMANN ET AL.

Examiner

Thomas K Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/5/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**First Action on the Merits**

1. Claims 1-15 of U.S. Application 09/827,012 filed on 04/05/2001 are presented for examination.

**Drawings**

2. New corrected drawings are required in this application because informal drawing was submitted with the original application. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

**Quotations of U.S. Code Title 35**

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Claim Rejections - 35 USC § 112**

7. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the phrase "implicit request" renders the claim indefinite because it is unclear whether it means an "indirect request", "unquestionable request" or "unconditional request" since there was no description or example in the original specification to illustrate what types of requests are considered an "implicit" request.

Regarding claim 3, the phrase "explicit request" renders the claim indefinite because it is unclear whether it means a "direct request" or "clearly stated request" since there was no description or example in the original specification to illustrate what types of requests are considered an "explicit" request.

### **Claim Rejections - 35 USC § 102**

8. Claims 1-3, 7, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,931,913 ("Meriwether").

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**Regarding claims 1, 12 and 14**

Meriwether teaches operating a client to establish a network connection with a server, comprising:

- negotiating environment parameters for establishing a connection-oriented connection with said server (col. 7 lines 40-44, “a communication channel is established ... to established a session”);
- said parameters including a request for said server to provide a confirmation record (col. 3 lines 46-49, “Establishment of the communications ... the communications channel”);
- and responsive to said request, receiving said confirmation record (col. 7 lines 47-52, “The request may be communicated ... to the client 214”).

**Regarding claim 2**

Meriwether teaches request being an implicit request (col. 3 lines 52-54, “may involve communicating data ... the terminal and the host”).

**Regarding claim 3**

Meriwether teaches request being an explicit request (col. 3 lines 49-52, “The indication of readiness ... between the client and the server”).

**Regarding claim 7**

Meriwether teaches client being a Telnet client, and said negotiating step including negotiating new environment and terminal type parameters (col. 4 lines 3-31, “a session may be ... the second number of transfers”).

### **Claim Rejections - 35 USC § 103**

9. Claims 4-6, 8-11, 13 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Meriwether in view of U.S. Patent No. 6,128,662 (“Bolton”).

#### **Regarding claim 4**

Meriwether teaches operating a client to establish a network connection with a server providing a confirmation record but does not teach a device name assigned by the server to the client connection. However, Bolton teaches a virtual name is generated by the server to the client during negotiation (col. 7 lines 50-56, “we generate the model string ... the device type as the key”) for the purpose of eliminating the need of the server to maintain a table of different devices. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the virtual device name of Bolton with the system of Meriwether because it would provide for the purpose of eliminating the need of a server to maintain a table of different devices.

#### **Regarding claim 5**

Meriwether teaches operating a client to establish a network connection with a server but do not teach confirmation record including a response code indicative of the cause of a failed connection. “Official Notice” is taken that both the concept and advantages of providing a log for the cause of a failed connection is well known and expected in the art. U.S. Patent No. 6,052,728 of Fujiyama et al. discloses a log file for recording all communication activity between a client and a server including any communication problem and the causes to the problem (see col. 4 line 66 to col. 5 line 5). Therefore, it would have obvious to one of ordinary skill in the art at the time of the invention to include the cause of a failed connection to the negotiation’s confirmation

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record of Meriwether and Bolton because it would provide for monitoring and analyzing the log file in order to optimize future telnet sessions.

**Regarding claim 6**

Meriwether responsive to said response code, retrying said negotiating step (col. 8 lines 55-63, “Those skill in the art .. establishment messages illustrated”).

**Regarding claims 8, 9, 13 and 15**

Meriwether teaches operating a server in a network, comprising the steps of: receiving a connection request from a client (col. 3 lines 46-49, “Establishment of the communications ... the communications channel”); inviting said client to negotiate environment parameters (col. 7 lines 54-62, “a Telnet logon dialog ... binary transmission option negotiation”); responsive to client acceptance, negotiating said parameters (col. 7 line 65 to col. 8 line 4, “terminal type information received ... and the server 232”); responsive to receiving a request for a confirmation record, providing to said client a confirmation record (col. 7 lines 47-52, “The request may be communicated ... to the client 214”). Meriwether does not teach assigning a virtual device name to said client; and the confirmation record including, for a successful connection, said virtual device name and, for an unsuccessful connection, a return code indicative of the cause of failure of said connection. However, Bolton teaches a virtual name is generated by the server to the client during negotiation (col. 7 lines 50-56, “we generate the model string ... the device type as the key”) for the purpose of eliminating the need of the server to maintain a table of different devices. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the virtual device name of Bolton with the system of Meriwether because it would provide for the purpose of eliminating the need of a



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server to maintain a table of different devices. Furthermore, "Official Notice" is taken that both the concept and advantages of providing a log for successful connection, for an unsuccessful connection and the cause of the failure is well known and expected in the art. U.S. Patent No. 6,052,728 of Fujiyama et al. discloses a log file for recording all communication activity between a client and a server including any communication successful connections or problem and the causes to the problem (see col. 4 line 42 to col. 5 line 5). Therefore, it would have obvious to one of ordinary skill in the art at the time of the invention to include the cause of a failed connection to the negotiation's confirmation record of Meriwether and Bolton because it would provide for monitoring and analyzing the log file in order to optimize future telnet sessions.

**Regarding claim 10**

Meriwether teaches server being a Telnet server and said client a Telnet client (col. 4 lines 3-31, "a session may be ... the second number of transfers").

**Regarding claim 11**

Meriwether teaches connection oriented protocol being a Telnet protocol according to which new environment parameters including an express or implicit request for said confirmation record may be negotiated (col. 3 lines 46-66, "Establishment of the communications ... the server and the host").

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (703) 305-7587 and fax number is (703) 746-8874, Monday-Thursday and every other Friday from 7:30AM- 5:00PM EST or contact Supervisor *Mr. Anthony Knight* at (703) 308-3179.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (703) 872- 9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Thomas Pham**  
*Patent Examiner*

*TP*  
July 30, 2004

*Ramesh Patel*  
RAMESH PATEL  
PRIMARY EXAMINER  
*8/2/04*  
*For Anthony Knight*